IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 30564 of 2007(L)

PETITIONER:
----

1. K.SURESH KUMAR,
ARUN VIHAR, KANNANALLOOR,
THRIKKOVILVATTOM, KOLLAM.

2. P.PRABHAKARAN, CHAKKALATHARAYIL VEEDU,
KOYIVILA P.O., KARUNAGAPPALLY, KOLLAM DISTRICT.

3. K.PURUSHOTHAMAN,
USHA BHAVANAM, NADUVATHU CHERRY,
CHAVARA SOUTH P.O., KOLLAM DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD

RESPONDENTS:
----

1. THE COMMISSIONER OF EXCISE,
EXCISE COMMISSIONERATE,
THIRUVANANTHAPURAM.

2. THE ASSISTANT EXCISE COMMISSIONER,
KOLLAM.

3. THE CIRCLE INSPECTOR OF EXCISE,
CHATHANNOOR EXCISE RANGE,
KOLLAM DISTRICT.

BY GOVT. PLEADER SMT.ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

\- -

W.P.(c).No. 30564 OF 2007

\- -

Dated this the 18th day of October, 2007

JUDGMENT

The writ petition is filed seeking the following reliefs:

"i) Issue a writ of mandamus or order or direction to the respondents 2 and 3 to allow the petitioners to run the Toddy Shops based on Ext.P1 Licence in the premises specified therein;

ii) Issue a writ of mandamus or order or direction to the respondents 2 and 3 to refrain from interfering in the functioning of the Toddy Shops mentioned in Ext.P1 Licence so long as the valid licence is in force."

2. According to the petitioners, they are having Ext.P1 licence. They also submit that they have remitted the rental, toddy worker's welfare Fund contribution and all other dues to the Government. The third respondent, it is their case, without passing any orders or giving any reasons is not allowing to function, it is stated. It is stated that the third respondent informed the petitioners that he got instructions from higher authorities that no newly started shops need be allowed to

function. It is their case that in all other areas newly started shops are allowed to function.

Learned Government Pleader on instructions submits that the re-deployed workers are not engaged in terms of Rule 4(2) of the Kerala Abkari Act. Learned counsel for the petitioner submits that petitioners are prepared to engage the re-deployed workers.

In such circumstances, the writ petition is disposed of recording the submission made on behalf of the authorities and directing respondents 2 and 3 to allow the petitioners to run the toddy shop based on Ext.P1 licence in the premises specified therein, of course, provided that the petitioners engage the re-deployed workers in accordance with the licence and the Rules. Should there be any violation, it is open to the respondents to pass written orders in accordance with law.

(K.M.JOSEPH, JUDGE)

sv.